

CX – 11



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
WATER AND
WATERSHEDS

August 7, 2015

Reply To
Attn Of: OWW-130

CERTIFIED MAIL- RETURN RECEIPT REQUESTED

Dave Erlanson
P.O. Box 46
Swan Valley, ID 83449

Re: NPDES Small Suction Dredge General Permit for Idaho, IDG370000
Miner No.: 168

Dear Dave Erlanson:

The U.S. Environmental Protection Agency (EPA) received your Notice of Intent (NOI) submitted to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Small Suction Dredge Placer Miners in Idaho (General Permit). Upon review of your NOI, the EPA determined that your small suction dredge operation on the South Fork of the Clearwater River between approximately 45.828456 N. Latitude, -115.615583 W. Longitude, and 45.826839 N. Latitude, -115.626897 W. Longitude (i.e., between Newsome and Leggett creeks) near Elk City, Idaho is not eligible for coverage under the General Permit at this time.

The South Fork of the Clearwater River has been designated as a critical habitat for bull trout, steelhead, and Chinook salmon. General Permit Part I.D.4.a. prohibits suction dredging in areas designated as critical habitat under the Endangered Species Act (ESA), or areas occupied by listed aquatic species, unless an ESA determination has been made and the decision is provided with the NOI. In a letter dated October 3, 2014, we informed you that the South Fork of the Clearwater River is currently closed to suction dredging under the EPA's General Permit; this letter serves as a second reminder.

The U.S. Fish and Wildlife (USFWS) and National Marine Fisheries Service (NMFS) are responsible for implementing the Endangered Species Act—specifically, protecting threatened and endangered species and their habitat. The EPA must also comply with this Act when issuing its own permits; for the location listed on your application, the EPA cannot proceed with granting permit coverage until ESA Consultation, as it's commonly called, is complete.

ESA Consultation is performed between two federal agencies on behalf of an applicant—typically, between a federal land manager and the USFWS and/or NMFS (depending on the species) through another process (e.g., U.S. Forest Service Plan of Operations). In April of this year, the Nez Perce-Clearwater National Forest and the Bureau of Land Management announced their intent to initiate a combined environmental analysis on the effects of suction dredging on protected species and their habitat in the South Fork of the Clearwater River. This effort, should it result in a favorable determination by the USFWS and NMFS, would allow the EPA to authorize a limited number of operations along the South Fork of the Clearwater River.

Until this process is complete, you may reapply to operate in a different area that's open under the General Permit (as well as IDWR's permit), or proceed with non-motorized methods of suction dredging, as they do not currently require a permit from the EPA. High banking, so long as steps are taken to prevent sediment from re-entering the water, is not regulated by the EPA.

Any individual denied coverage under the General Permit may apply for an Individual Permit. However, individual permit applications will require additional site specific analysis with potentially significant wait times before a final individual permit could be issued. Applications for an individual permit, Forms 1 and 2D, can be found online at: http://www.epa.gov/npdes/pubs/form_1.pdf and <http://www.epa.gov/npdes/pubs/3510-2D.pdf>.

You may view the entire General Permit online, as well as maps showing open and closed waters, and other supporting information at: <http://yosemite.epa.gov/r10/water.nsf/npdes+permits/idsuction-gp>.

Please be aware, permit coverage from the EPA and the Idaho Department of Water Resources (IDWR) is required in order to operate a small suction dredge in Idaho. The EPA and IDWR do not share the exact same list of open and closed waterbodies. If you have questions regarding this permit please contact Tracy DeGering in our Idaho Operations Office in Boise at degering.tracy@epa.gov or (208) 378-5756.

Sincerely,

Tracy DeGering
for Michael J. Lidgard, Manager
NPDES Permits Unit

cc: John Cardwell (John.Cardwell@deq.idaho.gov) – Idaho Dept of Environmental Quality, Lewiston Regional Office
Clint Hughes (cehughes02@fs.fed.us) – U.S. Forest Service, Nez Perce-Clearwater National Forests